

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISIO

BETHEL HOWARD, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:12-cv-03328

MENTOR WORLDWIDE, LLC, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

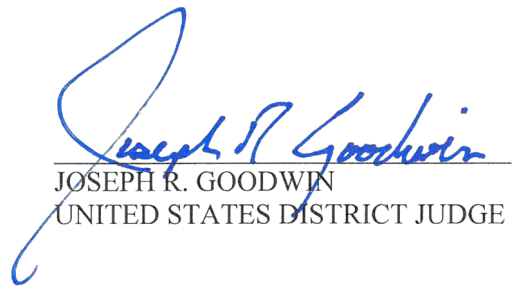
Pending is a motion to dismiss Coloplast Corp. (“Coloplast”) and Mentor Worldwide, LLC (“Mentor”) with prejudice for plaintiffs’ failure to serve a Plaintiff Fact Sheet pursuant to deadlines and requirements established by the court’s previous pretrial order. (ECF No. 19). Plaintiffs have not responded to the motion. The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that Coloplast and Mentor should be dismissed without prejudice from this case for failure to serve Plaintiff Fact Sheets in compliance with the court’s previous pretrial order.

Therefore, the court **ORDERS** that the motion to dismiss (ECF No. 19) is **GRANTED in part** to the extent Coloplast and Mentor seek dismissal and **DENIED** insofar as Coloplast and Mentor seek dismissal with prejudice. The court **ORDERS**

that Coloplast and Mentor are dismissed without prejudice, and this case is closed and stricken from the court's docket.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: May 9, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE